

ENVIRONMENTAL QUALITY

CHAPTER 20

Sub-Chapter 8

General Requirements for Applications

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Sub-Chapter 8

General Requirements for Applications

17.20.801 REQUIREMENTS OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY AND THE BOARD OF ENVIRONMENTAL REVIEW (1) An application must contain the information required by the department of environmental quality and the board of environmental review to determine compliance with applicable standards, permit requirements, and implementation plans under their jurisdiction for any proposed facility and for the primary and reasonable alternate locations for a proposed linear facility pursuant to 75-20-216(3), MCA. (History: 75-20-105, MCA; IMP, 75-20-105, 75-20-211, MCA; NEW, 1984 MAR p. 1844, Eff. 12/28/84; TRANS, from DNRC, 1996 MAR p. 2863; AMD, 2001 MAR p. 2410, Eff. 12/7/01.)

17.20.802 APPLICATION, NUMBER OF COPIES (1) The applicant shall submit 20 copies of the application at the time of filing to the department, PO Box 200901, Helena, MT 59620-0901. The applicant may submit fewer copies, especially of maps, map overlays, exhibits, appendices, or attachments as defined in ARM 17.20.803(3)(i) and (j), upon prior written approval from the department. For the contact prints providing photographic coverage, required by ARM 17.20.1418(5) and 17.20.1440(4), one copy is sufficient. The applicant shall promptly furnish one additional copy if requested by the department. (History: 75-20-105, MCA; IMP, 75-20-105, MCA; NEW, 1984 MAR p. 1844, Eff. 12/28/84; TRANS, from DNRC, 1996 MAR p. 2863; AMD, 2001 MAR p. 2410, Eff. 12/7/01.)

17.20.803 APPLICATION, FORMAT (1) An application shall be submitted in a loose leaf format, except for oversized material such as maps and map overlays.

(2) An application must contain an index cross-referencing the material contained in the application.

(3) An application shall be organized according to the following general categories:

- (a) introductory material;
- (b) description of the proposed facility;
- (c) cost of the facility;
- (d) explanation of the purpose and benefits of the proposed facility;
- (e) explanation of the need for a linear facility;

- (f) analysis of alternatives to the proposed facility;
- (g) alternative siting study for linear facilities;
- (h) environmental concerns;
- (i) all maps larger than 8½" x 11" in size and aerial photography shall be presented as an attachment entitled "Attachment A: Maps and Aerial Photography";
- (j) technical reports, reference or source documents, and other supplementary material provided by the applicant shall be presented as separate, consecutively arranged attachments, beginning with "Attachment B." (History: 75-20-105, MCA; IMP, 75-20-105, MCA; NEW, 1984 MAR p. 1844, Eff. 12/28/84; TRANS, from DNRC, 1996 MAR p. 2863; AMD, 2001 MAR p. 2410, Eff. 12/7/01.)

17.20.804 DOCUMENTATION OF INFORMATION SOURCES AND OMISSION OF CERTAIN INFORMATION REQUIREMENTS (1) An application must contain a list of sources of information used in preparing the application. An application must specify when field investigations were conducted.

(2) An application should include only information relevant to the facility. The application requirements in these rules address a comprehensive range of issues for the wide range of facilities covered by the Act. The applicability or relevance of the requirements to a particular facility are dependent on its type, its design, how its output will be marketed, its size or length, and on the characteristics and complexity of the geographic area(s) where the facility may be located. An application shall contain the information required by subchapters 8 and 9 and 13 through 15 unless specific provisions for submitting less information are contained in the rule, or unless the department gives written permission, prior to filing the application, to omit certain information. Unless a rule provides differently, an applicant desiring to omit information it considers irrelevant to the project shall submit to the department a written request to make the omission, along with documentation justifying its request. The department shall review the applicant's request and shall make a written determination of whether the information may be omitted. If there is a substantial cost to the department to verify the applicant's justification, the applicant shall contract with the department and reimburse it for expenses incurred pursuant to 75-20-106, MCA. (History: 75-20-105, MCA; IMP, 75-20-105, 75-20-211, MCA; NEW, 1984 MAR p. 1844, Eff. 12/28/84; TRANS, from DNRC, 1996 MAR p. 2863; AMD, 2000 MAR p. 2984, Eff. 10/27/00; AMD, 2005 MAR p. 252, Eff. 2/11/05.)

17.20.805 SUPPLEMENTAL MATERIAL (1) The applicant shall submit supplemental material to the department within 15 days after it becomes available following filing of an application. The applicant shall submit supplemental material in the form of substitute pages or insertions to the application as originally filed. Supplemental material includes information to update or finalize information submitted with the original application and the following:

(a) studies that an applicant routinely or periodically updates;

(b) changes in the application that result from a change in any statute, standard, permit requirement or implementation plan affecting the facility; and

(c) any other changes materially affecting the basis of need for the facility, the engineering design of the facility, the costs or the environmental impact of the facility.

(2) The penalty defined by 75-20-408, MCA, shall be imposed for failure to submit supplemental material available to the applicant but not known to the department, effective within 30 days of the date the material becomes available to the applicant. If the material is extensive, the applicant may within the 30-day period submit to the department a notice of intent to supplement the application with a description of the material to be supplied, and supply the material without undue delay in a time period agreed to by the applicant and the department. (History: 75-20-105, MCA; IMP, 75-20-211, 75-20-213, MCA; NEW, 1984 MAR p. 1844, Eff. 12/28/84; TRANS, from DNRC, 1996 MAR p. 2863; AMD, 2001 MAR p. 2410, Eff. 12/7/01.)

17.20.806 CHANGES IN AN APPLICATION (1) Pursuant to 75-20-213(2), MCA, an applicant may change or add to an application. The applicant shall inform the department of the change or addition by certified mailing or personal service. The applicant shall describe the change in sufficient detail to allow the department to make the determination required by ARM 17.20.807 and shall supply the information in the form of substitute pages or insertions to the application as originally filed. (History: 75-20-105, MCA; IMP, 75-20-105, 75-20-211, 75-20-213, MCA; NEW, 1984 MAR p. 1844, Eff. 12/28/84; TRANS, from DNRC, 1996 MAR p. 2863.)

17.20.807 AMENDMENT TO APPLICATION--NEW APPLICATION

(1) The department may determine that a change or addition to an application submitted by the applicant pursuant to ARM 17.20.805 or 17.20.806 requires an amendment to the original application and additional filing fees as provided by 75-20-213, MCA, if the change or addition would be likely to involve the following:

(a) increased or significantly different environmental impacts than would have been likely based on the information contained in the original application;

(b) significant changes in the basis of the need for a linear facility; or

(c) significant changes in the economics of alternatives to the proposed facility as required by ARM 17.20.1301, 17.20.1302, 17.20.1304, 17.20.1305, and 17.20.1311.

(2) The department may determine that a new application and a filing fee are required if the extensive nature of a change or the timing of the notification of a change or addition to the original application would not allow the department, or the other agencies listed in 75-20-216, MCA, to discharge their duties and responsibilities under the Act and these rules under the statutory time requirements and filing fee or under contractual terms pursuant to 75-20-215, MCA. If a new application and a filing fee are required, processing of the original application shall be terminated. If the total filing fee was paid at the time of filing, unexpended portions of the fee shall be returned to the applicant or credited to the new fee at the applicant's request if a new application is to be filed. For an application being processed under a contract pursuant to 75-20-215, MCA, the applicant shall be billed for the department's expenses up to the date of termination. Any studies completed or partially completed at the time of termination that are relevant to an amended or new application shall not be duplicated.

(3) The department shall inform the applicant in writing, within 30 days of receipt of information provided under ARM 17.20.805 or 17.20.806, of a determination that a change or addition to an original application requires an amendment or a new application.

(4) The applicant shall give notice upon filing an amendment or a new application as set forth in 75-20-211, MCA.

(5) An amendment to an application shall explain any change or addition in a degree of detail comparable to that required for an original application. (History: 75-20-105, MCA; IMP, 75-20-211, 75-20-213, 75-20-215, 75-20-216, MCA; NEW, 1984 MAR p. 1844, Eff. 12/28/84; TRANS, from DNRC, 1996 MAR p. 2863; AMD, 2001 MAR p. 2410, Eff. 12/7/01; AMD, 2005 MAR p. 252, Eff. 2/11/05.)

Rules 17.20.808 and 17.20.809 reserved

17.20.810 RELATED PROJECTS--SINGLE FACILITY (1) Related projects that address the same or closely related needs that the proposed facility would address may constitute a single facility for purposes of compliance with the application provisions of these rules. An application must explain the relationship of the proposed facility to other facilities or projects planned or under construction and must address all portions of the facility. (History: 75-20-105, MCA; IMP, 75-20-105, 75-20-211, MCA; NEW, 1984 MAR p. 1844, Eff. 12/28/84; TRANS, from DNRC, 1996 MAR p. 2863.)

17.20.811 ALL FACILITIES, ESTIMATED COST OF FACILITY

(1) An application for a facility defined in 75-20-104, MCA, must contain estimates and a description of total costs and expenses attributable to the engineering, construction, and startup of the proposed facility and associated facilities up to the time of commercial operation. Cost estimates may be based on preliminary engineering or if available, standardized engineering estimates.

(2) As used herein, engineering costs include all direct costs related to planning, design, permitting, quality control, and land acquisition. Construction costs include costs related to site or route preparation, erection and assembly, and commissioning costs. Cost estimates must be itemized into relevant categories as follows unless other categories are agreed to by the department:

- (a) engineering and overhead costs;
- (b) land acquisition costs, and site or right-of-way preparation costs;
- (c) plant costs, itemized by major process area and by major equipment. For proprietary processes itemization by major process area is sufficient for the application;
- (d) costs of transportation links;
- (e) mitigation costs;
- (f) front end royalty payments;
- (g) initial inventories of coal, chemicals or materials;
- (h) startup expenses and working capital; and
- (i) any other costs necessary and incidental to the construction of the facility and preparation for initial operation.

(3) The application must contain an explanation of the methods, including rules of thumb, used to estimate costs required by (2) of this rule.

(4) An estimate must be presented of the accuracy of all cost estimates.

(5) Costs must be provided for all portions of the facility both in and outside Montana.

(6) All costs must be estimated by instantaneous total cost of construction escalated to the date of the projected

start of construction. Escalated costs as of the projected start of construction must then be adjusted to the construction expenditure schedule based on percentages of total cost incurred in each period and escalated to the date of incurrence. Cost escalation must be based on the most appropriate Handy Whitman or other industry recognized and department approved construction cost index.

(7) The department may request additional detail on costs as necessary for comparison of alternatives. (History: 75-20-105, MCA; IMP, 75-20-215, MCA; NEW, 1984 MAR p. 1844, Eff. 12/28/84; TRANS, from DNRC, 1996 MAR p. 2863; AMD, 2001 MAR p. 2410, Eff. 12/7/01.)

17.20.812 ENERGY GENERATION AND CONVERSION FACILITIES, ESTIMATED COST OF ENERGY OR PRODUCT IS REPEALED (History: 75-20-105, MCA; IMP, 75-20-211, 75-20-215, MCA; NEW, 1984 MAR p. 1844, Eff. 12/28/84; TRANS, from DNRC, 1996 MAR p. 2863; REP, 2001 MAR p. 2410, Eff. 12/7/01.)

Rules 17.20.813 and 17.20.814 reserved

17.20.815 LINEAR FACILITIES, ESTIMATED ANNUAL COSTS

(1) An application for a linear facility must contain a detailed analysis of the annual costs of the facility for purposes of comparing the facility with alternatives, as required by 75-20-301, MCA, including detail on the capital and operating costs and operational characteristics of the facility.

(2) All estimated construction costs must be escalated to the appropriate date in the construction schedule as explained in ARM 17.20.811(6).

(3) An application must contain information about the likely methods of financing construction of the facility. For facilities taking longer than one year to construct, allowance for funds used during construction must be added to the escalated construction costs to calculate the capital costs as of the date the facility is placed in commercial operation.

(4) Amortization costs must be calculated by standard industry practice for the estimated life of the bonds or other borrowing, or for the economic life of the facility.

(5) Costs for the first, fifth and tenth full operational year of the facility must be estimated. If current costs are used as a basis they must be escalated, using an appropriate index or indices of recent cost escalation specified in ARM 17.20.811(6), to the first full operational year. The same index or other department approved index or indices must be used to escalate operating costs over the life of the facility.

(a) Annual costs must be disaggregated by relevant categories including, but not limited to, amortization, depreciation, taxes, insurance, interim replacements, any other capital-related annual costs, operational labor costs, operational material costs, pumping costs, water costs, waste disposal costs, and maintenance costs. Assistance shall be specified. All assumptions used in estimating the costs must be explained.

(6) An application must contain a description of design capacity and expected operational characteristics of the facility.

(7) For pipelines, energy transport costs for the first, fifth and tenth full operational year must be calculated by dividing the appropriate year's costs by the expected annual net throughput of the facility during full operation.

(8) For pipelines, levelized energy transport costs must be calculated by dividing levelized annual costs by the expected annual net throughput of the facility during full operation.

(9) First, fifth and tenth year and levelized costs must be calculated in constant dollars for a specified year, preferably the year of application. The index used to convert nominal to constant dollars must be specified.

(10) An application must contain an explanation of the methods, including rules of thumb, used to estimate costs and operating characteristics.

(11) An application must contain estimates of the accuracy of all costs and operating characteristics. (History: 75-20-105, MCA; IMP, 75-20-105, 75-20-211, 75-20-215, MCA; NEW, 1984 MAR p. 1844, Eff. 12/28/84; TRANS, from DNRC, 1996 MAR p. 2863; AMD, 2005 MAR p. 252, Eff. 2/11/05.)

17.20.816 ALL FACILITIES, SERVICE AREA UTILITIES, COPIES OF CONTRACTS FOR PURCHASE OF MATERIALS OR SALE OF ENERGY FROM THE PROPOSED FACILITY IS REPEALED (History: 75-20-105, MCA; IMP, 75-20-211, 75-20-215, MCA; NEW, 1984 MAR p. 1844, Eff. 12/28/84; TRANS, from DNRC, 1996 MAR p. 2863; REP, 2001 MAR p. 2410, Eff. 12/7/01.)

17.20.817 LINEAR FACILITIES, PRICING POLICY (1) An application for a linear facility must contain a discussion of how the product or transportation services provided by the facility will be priced or how the costs of the facility will be recovered. Distinction should be made between pricing according to market value, and the use of rolled-in pricing, average cost pricing, or any other cost-based pricing method. This rule does not apply to transmission lines that recover costs through overall energy charges or similar methods. (History: 75-20-105, MCA; IMP, 75-20-211, MCA; NEW, 1984 MAR p. 1844, Eff. 12/28/84; TRANS, from DNRC, 1996 MAR p. 2863; AMD, 2001 MAR p. 2410, Eff. 12/7/01.)

17.20.818 LINEAR FACILITIES, EVALUATION OF ECONOMIC COSTS AND BENEFITS (1) To facilitate a comparison of the project and alternatives for the department's finding under 75-20-301, MCA, an application must include information on the internal and external costs and benefits of a proposed linear facility.

(2) For internal costs the information provided under ARM 17.20.811 or 17.20.815 is sufficient.

(3) For external costs the information provided under Circular MFSA-2, sections 3.7 and 3.8 is sufficient.

(4) Information on benefits must include, where relevant, benefits to the consumer, benefits to the applicant, and benefits to Montana. Information concerning these benefits may include increased reliability, increased transient stability, increased power transfer capability, decreased chance of voltage drop and other economic considerations such as current system costs. The applicant may not double count benefits and shall include nonmonetary benefits wherever possible. (History: 75-20-105, MCA; IMP, 75-20-105, 75-20-211, 75-20-215, MCA; NEW, 1984 MAR p. 1844, Eff. 12/28/84; TRANS, from DNRC, 1996 MAR p. 2863; AMD, 2001 MAR p. 2410, Eff. 12/7/01; AMD, 2005 MAR p. 252, Eff. 2/11/05.)

